



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 159	Assembly Amendments 1 and 2
<i>Memo published:</i> May 1, 2003	<i>Contact:</i> Don Salm, Senior Staff Attorney (266-8540)

ASSEMBLY AMENDMENT 1

Under *current s. 23.33 (4) (b), Stats.*, a person may not operate an all-terrain vehicle (ATV) on a highway *except* as authorized under s. 23.33 (4) (d) and (e), Stats.

Assembly Bill 159 creates a new exception in s. 23.33 (4) (em) authorizing the operation of ATVs on highways for the purpose of access from residences and lodging to an ATV trail or route. However, the bill does not include this exception in current s. 23.33 (4) (b).

Assembly Amendment 1 is a technical amendment to add the new exception to the listing of exceptions in current s. 23.33 (4) (b), Stats.

ASSEMBLY AMENDMENT 2

Under *current law*, a person may not operate an ATV on the roadway of a highway, street, or road except under certain limited circumstances.

The *bill* specifically authorizes the operation of ATVs on a portion of a roadway and shoulder of a highway, street, or road if the highway, street, or road is within the jurisdiction of a county, town, city, or village that has enacted an ordinance that allows the operation of ATVs for the purposes of residential access or access from lodging. "Residential access" is defined as being a distance of not more than *five miles* for an ATV to go between a residence and an ATV route or ATV trail. "Access from lodging" is defined as being a distance of not more than *five miles* in order for an ATV to go between a lodging establishment or campground and an ATV route or ATV trail. A county, town, city, or village may not enact an ordinance for access from lodging unless it has also enacted an ordinance for residential access.

Assembly Amendment 2 creates separate "access" provisions depending upon whether a state trunk highway (STH) is involved in the access:

1. ***On State Trunk Highways.*** Subject to those situations in which Department of Transportation (DOT) authorization described in item c., below, is required, a ***municipality*** may enact an ordinance:

a. Residential. Allowing the operation of ATVs on a roadway and shoulder of a STH for any portion of the STH that is within the jurisdiction of the municipality for the purpose of traveling the shortest distance that is necessary to go between a residence and the ATV route or ATV trail that is closest to that residence.

b. Lodging. Allowing the operation of ATVs on a roadway or shoulder of a STH for any portion of the STH that is within the jurisdiction of the municipality for the purpose of traveling the shortest distance that is necessary to go between a lodging establishment and the ATV route or ATV trail that is closest to that lodging establishment if the municipality also enacts or has in effect a “residential ordinance” enacted under item a., above.

c. DOT Authorization Required. A ***county or town*** may not enact an ordinance under item a. or b., above, that will allow the operation of ATVs on a roadway and shoulder of a STH that is ***more than one-quarter mile*** in length unless the county or town has first received authorization from DOT to allow the operation of ATVs on the roadway or shoulder of that portion of the STH.

2. ***On Other Highways.*** A ***municipality*** may enact an ordinance allowing operation of ATVs on a roadway and shoulder of a highway that is ***not a STH*** for any portion of the highway that is within the jurisdiction of the municipality:

a. Residential. For the purpose of traveling a distance of ***not more than five miles*** to go between a ***residence*** and the ATV route or ATV trail that is closest to the residence.

b. Lodging. For the purpose of traveling a distance of ***not more than five miles*** to go between a lodging establishment and the ATV route or ATV trail that is closest to the establishment if the municipality also enacts or has in effect an ordinance enacted under item a., above.

The amendment specifies that the DOT and the off-the-road vehicle council must jointly prepare model ordinances that a municipality may enact under items 1. and 2., above.

Legislative History

On April 30, 2003, the Assembly Committee on Highway Safety voted to recommend adoption of Assembly Amendment 1, offered by the committee, by a vote of Ayes, 8; Noes, 0; and recommended adoption of Assembly Amendment 2, offered by the committee, by a vote of Ayes, 8; Noes, 0; and recommended passage of Assembly Bill 159, as amended, by a vote of Ayes, 5; Noes, 3.

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